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Application No.: 10/633,905                      Group: 2862  
Filed: August 4, 2003                      Examiner: Jay M. Patidar  
Confirmation No.: 7549  
For: MATERIAL CONDITION ASSESSMENT WITH SPATIALLY  
PERIODIC FIELD SENSORS

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## REPLY TO RESTRICTION REQUIREMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Restriction Requirement dated February 3, 2005, the claims of Group I (Claims 15, 34-36), drawn to a method for monitoring material properties with an electromagnetic sensor with perforations, are elected for prosecution. Applicant reserves the right to file a continuing application or take such other appropriate action as deemed necessary to protect the non-elected inventions. Applicant does not hereby abandon or waive any rights in the non-elected inventions.

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Adjustment Date: 08/19/2005 SDIRETA1  
03/24/2005 AJOHNS01 00000005 080380 10633905  
01 FC:1251 120.00 CR

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Via Facsimile

Ms. Latrice Sims  
U.S. Patent and Trademark Office  
Refunds Branch

Re: U.S. Patent Application No. 10/633,905

Dear Ms. Sims:

Attached to this letter are copies of an Office Action mailed February 3, 2005, stating that the subject patent application was subject to restriction and/or election requirement, and our Reply to Restriction Requirement dated March 10, 2005.

The Office Action Summary states that "a shortened statutory period for reply is set to expire 3 month(s) from the mailing date of this communication." Our reply, which was received by the U.S. Patent Office on March 14, 2005, falls within three months of the mailing date of the Office Action.

Therefore, the extension of time fee of \$120 charged to this firm's deposit account number 03-0380, as seen on a PTO statement dated March 31, 2005, is incorrect and should be refunded.

Very truly yours,

*Lyudmila Lubashev*

Lyudmila Lubashev

I.L/cts

@TI\Desktop\O\DMA\MI\ODM\HBSR05\HMSaga;559137;1

JUL-19-2005 TUE 12:51 PM HBSR

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P. 03



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UNITED STATES PATENT AND TRADEMARK OFFICE

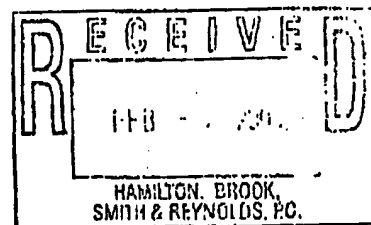
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,905	08/04/2003	Neil J. Goldfine	1884.1020-009	7549
21005	7590	02/03/2005	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			PATIDAR, JAYM	
			ART UNIT	PAPER NUMBER
			2862	

DATE MAILED: 02/03/2005

REP 5/3/05

Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application No.

10/633,905

Applicant(s)

GOLDFINE ET AL.

Examiner

Jay M. Patidar

Art Unit

2862

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.  
 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15, 18-22 and 34-36 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☒ Claim(s) 15, 18-22 and 34-36 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-648)  
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No.(s)/Mail Date \_\_\_\_\_  
 4) ☐ Interview Summary (PTO-413)  
 Paper No.(s)/Mail Date \_\_\_\_\_  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_

U.S. Patent and Trademark Office  
 PTO-326 (Rev. 1-04)

Office Action Summary

PAGE 4/10 \* RCVD AT 7/19/2005 12:59:49 PM [Eastern Daylight Time] \* SVR:USPTO-EPXRF-6/24 \* DNIS:2736500 \* CSID:1 978 341 0136 \* DURATION (mm-ss):02:08

Application/Control Number: 10/633,905  
Art Unit: 2862

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1. This communication is in response to applicants amendment filed on November 22, 2004.
2. Upon further review of independent claims 15, 18 and 34, a restriction is required as follows.
3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 15, 34-36, drawn to a method for monitoring material properties with an **electromagnetic** sensor with perforations, classified in class 324, subclass 234.
  - II. Claims 18-22, drawn to a method for monitoring material properties with an **eddy current** wherein the material is shaped to create a stress distribution so that fatigue damage initiates under the sensor, classified in class 324, subclass 239.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I

Application/Control Number: 10/633,905  
Art Unit: 2862

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has separate utility such as the sensor used in the hazardous environment. See MPEP § 806.05(d).

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. A telephone call was made to Mr. Lyudmila Lubashev on February 2, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jay M. Patidar whose telephone number is 571-272-2265. The examiner can normally be reached on M-Thur 8:00-6:30.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

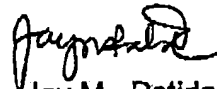
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Application/Control Number: 10/633,905  
Art Unit: 2862

Page 5



Jay M. Patidar  
Primary Examiner  
Art Unit 2862

February 2, 2005



PPFDesktop: ODMA/MIHODMA/IRSR05;Manug: 329:1  
MS/J.L/ets  
3/10/2005

PATENT APPLICATION  
Docket No.: 1884.1020-009

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Neil J. Goldfine, Darrell E. Schlicker, Karen E. Walrath, Andrew P. Washabaugh,  
Vladimir A. Zilberstein and Vladimir Tsukernik

Application No.: 10/633,905                      Group: 2862  
Filed: August 4, 2003                      Examiner: Jay M. Patidar  
Confirmation No.: 7549

For: MATERIAL CONDITION ASSESSMENT WITH SPATIALLY  
PERIODIC FIELD SENSORS

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Date	Signature
<i>Ellen T. Spear</i>	
Typed or printed name of person signing certificate	

REPLY TO RESTRICTION REQUIREMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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10/633,905

-2-

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

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Dated: 3/12/5

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**FACSIMILE COVER SHEET**

**To:** Ms. Latrice Sims, Refunds Branch

**Date:** July 19, 2005

**Client Code:** 1884

**Facsimile No.:** 571-273-6500

**From:** Lyudmila Lubashev

**Subject: Paper:** Request for Refund to Deposit Account

**Docket No.:** 1884.1020-009

**Applicants:** Neil J. Goldfine, *et al.*

**Serial No.:** 10/633,905

**Filing Date:** August 4, 2003

Number of pages including this cover sheet: 10

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